

REMARKS/ARGUMENTS

A. Introduction

In the Office action of April 7, 2006, the Examiner rejected claims 1- 19 under 35 USC § 102(b) as being anticipated by US Patent No. 5,857,175 to Day et al. (hereinafter "*Day*"). The Applicant has amended claims 1, 13, 16 and 18 to correct typographical errors and has amended the specification to clarify an acronym. By these amendments, the Applicant has not added new matter.

B. Rejection of Claim 1 under 35 USC § 102(b)

The Applicant again notes that claim 1 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 1 as currently amended reads as follows:

A promotional data delivery system comprising:

- (a) first interfacing means for providing interaction between a host computer and one or more promoters, the first interfacing means comprising:
 - (1) defining means for the one or more promoters to fashion one or more promotional materials;
 - (2) inputting means for the one or more promoters to enter one or more target consumer profiles corresponding to the one or more of the promotional materials; and
 - (3) database means for accessibly storing a target consumer profile for each of the one or more target consumer profiles entered by the one or more promoters in a manner relatable with consumer profiles;
- (b) second interfacing means for providing interaction between a host computer and one or more consumers subscribing to said system, the second interfacing means comprising:
 - (1) profiling means for each consumer to establish a consumer profile by responding to profiling queries provided by the host computer; and

- (2) database means for accessibly storing a consumer profile for each of the one or more consumers in a manner relatable with the target consumer profiles;
- (c) querying means for searching the database means with the consumer profiles according to the target consumer profiles to form a list of one or more consumers to receive promotional materials generated by the one or more promoters;
- (d) establishing means for forming a list of one or more targeted consumers based on the querying means; and
- (e) delivering means for providing to each of the targeted consumers the promotional materials.

The “delivering means for providing” is described in the specification of the present application at page 7, lines 27 to 28 as “paper coupons delivered by first class mail or other means acceptable to the promoter” and in an alternative embodiment, at page 19, lines 19-20, as “a hardcopy printout of the electronic document, which will then be brought to the retailer.” This contrasts with *Day* which discloses at col. 4, lines 62-67 and col. 5, lines 21-55, an in-store kiosk having printing capability. The Applicant respectfully asserts that the delivery means of the present application is not the printing, in-store kiosk of *Day*. Accordingly, the Applicant respectfully asserts claim 1 is not anticipated by *Day* and claim 1 is in condition for allowance.

B.1. Rejection of Claim 2 under 35 USC § 102(b)

The Applicant again notes that claim 2 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 2, as originally filed, further limits claim 1 by adding an additional element, i.e., the registering means to the second interfacing means and the Applicant respectfully asserts that since the patentability of claim 1 is not precluded by *Day*, claim 2 is presently allowable.

B.2. Rejection of Claim 3 under 35 USC § 102(b)

The Applicant again notes that claim 3 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 3, as originally filed, further limits claim 2 by adding an additional elements and the Applicant respectfully assert that since the patentability of claims 1 and 2 are not precluded by *Day*, claim 3 is presently allowable.

B.3. Rejection of Claim 4 under 35 USC § 102(b)

The Applicant again notes that claim 4 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 4, as originally filed, further limits claim 1 by adding an additional element and the Applicant respectfully asserts that since the patentability of claim 1 is not precluded by *Day*, claim 4 is presently allowable.

B.4. Rejection of Claim 5 under 35 USC § 102(b)

The Applicant again notes that claim 5 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 5 as originally filed, reads as follows (with emphasis added):

A promotional data delivery system as claimed in claim 1, wherein the second interfacing means for providing interaction between a host computer and one or more consumers subscribing to said system further comprises *selecting means for the consumer to request one or more of the promotional materials defined by the one or more promoters* and thereby one or more identification numbers of the selected promotional material are transmitted to the host computer.

The present application discloses a selecting means for the consumer (specification page 8, line 28 to page 9, line 29 and page 17, lines 1 - 4). *Day* does not provide an element in his described system by which the customer may select promotional material defined by the one or more promoters. That is, the customer interface in *Day* does not allow the customer to engage in any selection process at the interface, i.e., at the kiosk (col. 5, lines 27 – 36). Accordingly, claim 5 is not anticipated by *Day*. In addition, claim 5, as originally filed, further limits claim 1 by adding additional elements and the Applicant respectfully asserts that since the patentability of claim 1 is not precluded by *Day*, claim 5 is presently allowable.

B.5. Rejection of Claim 6 under 35 USC § 102(b)

The Applicant again notes that claim 6 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 6 as originally filed reads as follows (with emphasis added):

A promotional data delivery system as claimed in claim 5, wherein the delivering means for providing to each of the targeted consumers the promotional materials provides promotional materials ***requested by the consumer.***

The present application discloses a delivering means for providing to each of the targeted consumers the promotional materials requested by the consumer (specification page 18, lines 13 -25). *Day* does not provide an element in his described system by which the customer may request and receive requested promotional materials. That is, the customer interface in *Day* does not allow the customer to engage in any selection process at the interface, i.e., at the kiosk (col. 5, lines 27 – 36). Accordingly, the consumer may not enter a request and so claim 6 is not anticipated by *Day*. In addition, claim 6, as originally filed, is recited to further limit claim 5 by limiting the delivery means and, accordingly, the Applicant respectfully assert that since the patentability of claims 1 and 5 are not precluded by *Day*, claim 6 is presently allowable.

B.6. Rejection of Claim 7 under 35 USC § 102(b)

The Applicant again notes that claim 7 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 7, as originally filed, further limits claim 1 by adding an additional elements and the Applicant respectfully assert that since the patentability of claim 1 is not precluded by *Day*, claim 7 is presently allowable.

B.7. Rejection of Claim 8 under 35 USC § 102(b)

The Applicant again notes that claim 8 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 8, as originally filed, further limits claim 1 by adding an additional element and the Applicant respectfully asserts that since the patentability of claim 1 is not precluded by *Day*, claim 8 is presently allowable.

B.8. Rejection of Claim 9 under 35 USC § 102(b)

The Applicant again notes that claim 9 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 9 as originally filed reads as follows (with emphasis added):

A promotional data delivery system as claimed in claim 1, wherein the delivering means for providing to each of the targeted consumers the promotional materials provides promotional materials generated by the promoters is comprised of one or more printers electronically and securely connected to the host and *postal packages carrying promotional materials printed by the host computers addressed to the targeted consumers.*

The present application discloses a delivering means that includes postal packages for providing to each of the targeted consumers the promotional materials (specification page 7, lines 21 - 28). *Day* does not provide an element in his described system by which the

customer may request and receive requested promotional materials via postal packages. The Applicant respectfully asserts claim 9 is not anticipated by *Day*. In addition, claim 9, as originally filed, is recited to further limit claim 1 by limiting the delivery means and, accordingly, the Applicant respectfully assert that since the patentability of claim 1 is not precluded by *Day*, claim 9 is presently allowable.

B.9. Rejection of Claim 10 under 35 USC § 102(b)

The Applicant again notes that claim 10 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 10 as originally filed reads as follows (with emphasis added):

A promotional data delivery system as claimed in claim 1, wherein the delivering means for providing to each of the targeted consumers the promotional materials provides promotional materials generated by the promoters is comprised of *the transmission, by the host to each targeted consumer, of an electronic coupon available for verification by participating retailers and printable electronic coupons for targeted consumers to print locally and transport to participating retailers.*

The present application discloses a delivering means including the transmission of electronic coupons to targeted consumers (specification page 18, lines 21-25). While *Day* describes a printer at a kiosk printing a list for the consumer (col. 4, line 59 to col. 5, line 4), *Day* does not describe a system element that delivers electronic coupons to the targeted consumer. Accordingly, the Applicant respectfully asserts claim 10 is not anticipated by *Day*. In addition, claim 10, as originally filed, is recited to further limit claim 1 by limiting the delivery means and, accordingly, the Applicant respectfully asserts that since the patentability of claim 1 is not precluded by *Day*, claim 10 is presently allowable.

C. Rejection of Claim 11 under 35 USC § 102(b)

The Applicant again notes that claim 11 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 11 as originally filed reads as follows (with emphasis added):

A promotional data delivery system comprising:

- (a) first interfacing means for providing interaction between a host computer and one or more promoters, the first interfacing means comprising:
 - (1) defining means for the one or more promoters to fashion one or more promotional materials;
 - (2) inputting means for the one or more promoters to enter one or more target consumer profiles corresponding to one or more of the promotional materials;
 - (3) database means for accessibly storing a target consumer profile for each of the one or more target consumer profiles entered by the one or more promoters in a manner relatable with consumer profiles;
- (b) second interfacing means for providing interaction between a host computer and one or more consumers subscribing to said system, the second interfacing means comprising:
 - (1) registering means for enrolling each of the one or more consumers as subscribing consumers
 - (2) profiling means for each consumer to establish a consumer profile by responding to profiling queries provided by the host computer; said queries comprised of consumer data determining queries and consumer identity determining queries;
 - (3) *selecting means for the consumer to request one or more of the promotional materials defined by the one or more promoters;* and
 - (4) database means for accessibly storing a consumer profile for each of the one or more consumers in a manner relatable with the target consumer profiles;
- (c) querying means for searching the database means with the consumer profiles according to the target consumer profiles to form a list of one or more consumers to receive promotional materials generated by the one or more

- promoters;
- (d) establishing means for forming a list of one or more targeted consumers based on the querying means;
 - (e) one or more printers electronically and securely connected to the host for the printing of promotional materials *for delivery to the targeted consumers by a service selected from a group consisting of US Postal Service and parcel delivery services*; and
 - (f) tracking means for correlating successive coupon deliveries as made by the host.

The present application discloses a selecting means for the consumer to request one or more of the promotional materials defined by the one or more promoters (specification page 17, lines 1 -4). *Day* teaches a customized list of special offers directed to in-store items, printed out as a list, to which a price discount is applied if purchased by the customer while in the store, i.e., within a 3-hour timeframe. Unlike the present application, the customer interface in *Day* does not allow the customer to engage in any selection process at the interface, i.e., at the kiosk (col. 5, lines 27 – 36). *Day* does not appear to teach or suggest a means by which the consumer may select promotional materials for delivery as printed material to the consumer via a service selected from a group consisting of US Postal Service and parcel delivery services. The Applicant respectfully asserts that *Day* does not anticipate claim 11 and claim 11 is in condition for allowance.

D. Rejection of Claim 12 under 35 USC § 102(b)

The Applicant again notes that claim 12 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 12, as originally filed, reads as follows (with emphasis added):

A method of promotional data delivery, the method comprising the steps of:

- (a) interfacing between a host computer and one or more promoters wherein the step of interfacing between the host and the one or more promoters further comprises the steps of:

- (1) defining, by the one or more promoters, one or more promotional materials; and
- (2) inputting one or more target consumer profiles corresponding to the one or more promotional materials by the one or more promoters into a database of the host;
- (b) interfacing between the host computer and one or more subscribing consumers wherein the step of interfacing between the host computer and the one or more subscribing consumers further comprises the steps of:
 - (1) presenting one or more profiling queries, by the host computer and to the one or more subscribing consumers;
 - (2) transmitting, by the one or more subscribing consumers to the host computer, responses to the one or more profiling queries; and
 - (3) storing, by the host computer in the database, one or more subscribing consumer profiling queries and the selections by the one or more subscribing consumers;
- (c) searching, by the host computer, of the database containing the one or more subscribing consumer profiles; said searching based on target consumer profiles;
- (d) identifying, by the host computer, subscribing consumer profiles satisfying said searching based on target consumer profiles;
- (e) establishing, by the host computer, from the identified subscribing consumer profiles, targeted consumers to receive promotional materials defined by the one or more promoters;
- (f) ***printing, by one or more printers attached to the host computer, promotional materials for the targeted consumers and one or more of the promotional materials both defined by the promoters and selected by the one or more subscribing consumers;*** and
- (g) delivering to each subscribing consumer the printed promotional materials selected by each respective subscribing consumer and the promotional materials established for each as a targeted consumer.

As originally filed, the step of printing is limited in claim 12 to include the one or more promotional materials both defined by the promoters and selected by the one or more subscribing consumers. The Applicant respectfully asserts that the offer communicator of *Day*, which presents in a printing the offers from which the customer may select in the course of shopping (col. 4, line 59, to col. 5, line 4) does not anticipate the printing of one or more promotional materials both defined by the promoters and selected by the one or more subscribing consumers as claimed in claim 12.

D.1. Rejection of Claim 13 under 35 USC § 102(b)

The Applicant again notes that claim 13 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 13 as currently amended reads as follows (with emphasis added):

A method of promotional data delivery as claimed in claim **12**, wherein
*the step of interfacing between the host computer and the one or more
subscribing consumers further comprises the steps of:*

- (a) selecting, by the one or more subscribing consumers, the one or more
promotional materials defined by the promoters;*
- (b) transmitting, by the one or more subscribing consumers to the host
computer, the selected one or more promotional materials; and*
- (c) storing, by the host computer in a database, the selections by the one or
more subscribing consumers.*

The Applicant respectfully asserts that *Day* discloses neither a selection by the subscribing consumers of the promoter-defined promotional materials nor the transmission of these selections by the subscribing consumers to the host computer. Moreover, *Day* teaches away from a consumer selection at col. 5, lines 32 – 34: “The customer does not engage in any selection process, but instead is quickly processed at the kiosk.”

D.2. Rejection of Claim 14 under 35 USC § 102(b)

The Applicant again notes that claim 14 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 14 as originally filed reads as follows (with emphasis added):

A method of promotional data delivery as claimed in claim 12, wherein the step of interfacing between the host computer and the one or more subscribing consumers further comprises the steps of:

- (a) registering, by the one or more subscribing consumers; and
- (b) *transmitting, by the one or more subscribing consumers to the host computer, consent to receive promotional materials as targeted consumers.*

The Applicant respectfully asserts the specification of the present application describes a subscribing customer as one that may enter profiles (specification page 16, lines 19 - 24) and unlike *Day*, may select the promotional materials presented to him or her for printing (specification page 8, line 28 to page 9, line 29 and page 17, lines 1 - 4). In addition, the subscribing customer as described in the present application may elect to receive promotional materials as a targeted customer (specification page 16, lines 24 - 30). The Applicant respectfully asserts that while *Day* discloses a consumer enrollment by a smart card that may be used to correlate purchasing habits, *Day* does not disclose a consumer consenting to changing status, i.e., foregoing the promotion material selection as a screening, and that this consent is made by way of transmission to a host computer.

D.3. Rejection of Claim 15 under 35 USC § 102(b)

The Applicant again notes that claim 15 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*. The Applicant respectfully asserts that claim 15 further clarifies claim 12, and the patentability of claim 12 is not precluded by *Day*, and accordingly claim 15 is presently allowable.

D.4. Rejection of Claim 16 under 35 USC § 102(b)

The Applicant again notes that claim 16 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 16, as currently amended for grammatical clarity, further limits claim 12 and the Applicant respectfully asserts that since the patentability of claim 12 is not precluded by *Day*, claim 16 is presently allowable.

D.5. Rejection of Claim 17 under 35 USC § 102(b)

The Applicant again notes that claim 17 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 17 as originally filed reads as follows (with emphasis added):

A method of promotional data delivery as claimed in claim **12**, the method further comprising the step of tracking, by the host computer, ***the coupon deliveries as they are made by the host.***

Day discloses a kiosk from which offers are printed and provided to the customer. The use by the customer of these printed offers is tracked in *Day* but this is not the tracking of the delivery of the promotional materials, i.e., the distribution of coupons, as described in the present application (specification page 15, lines 25 - 29). The Applicant respectfully asserts *Day* does not anticipate claim 12 as limited by claim 17. In addition, claim 17 further limits claim 12 and the Applicant respectfully asserts that since the patentability of claim 12 is not precluded by *Day*, claim 17 is presently allowable.

E. Rejection of Claim 18 under 35 USC § 102(b)

The Applicant again notes that claim 18 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 18 as currently amended reads as follows (with emphasis added):

A method of promotional data delivery, the method comprising the steps of:

(a) interfacing between a host computer and one or more promoters wherein the step of interfacing between the host and the one or more promoters further comprises the steps of:

(i) defining, by the one or more promoters, one or more promotional materials; and

(ii) inputting one or more target consumer profiles corresponding to the one or more promotional materials by the one or more promoters into a database of the host;

(b) *interfacing between the host computer and one or more subscribing consumers wherein the step of interfacing between the host computer and the one or more subscribing consumers further comprises the steps of:*

(1) presenting one or more profiling queries, by the host computer and to the one or more subscribing consumers;

(2) transmitting, by the one or more subscribing consumers to the host computer, responses to the one or more profiling queries;

(3) *selecting, by the one or more subscribing consumers, the one or more promotional materials defined by the promoters;*

(4) transmitting, by the one or more subscribing consumers to the host computer, the selected one or more promotional materials; and

(5) storing, by the host computer in the database, one or more subscribing consumer profiling queries and the selections by the one or more subscribing consumers;

(c) searching, by the host computer, of the database containing the one or more subscribing consumer profiles; said searching based on target consumer profiles;

(d) identifying, by the host computer, subscribing consumer profiles satisfying said searching based on target consumer profiles;

(e) establishing, by the host computer, from the identified subscribing consumer profiles, targeted consumers to receive promotional materials defined by the one or more promoters;

(f) *transmitting by the host computer, promotional materials for the targeted consumers and one or more of the promotional materials both defined by the promoters and selected by the one or more subscribing consumers in an electronic document;*

(g) printing, by the subscribing consumer a hardcopy of the electronic document; and

(h) delivering to a sponsoring retailer the hardcopy for scanned redemption.

The step of interfacing between the host computer and one or more subscribing consumers of claim 18 comprises the sub-step of selecting, by the one or more subscribing consumers, one or more the promotional materials defined by the promoters. The Applicant respectfully submits this is not taught, disclosed or suggested by *Day*.

The transmitting step of the claim 18 recites an electronic document including one or more of the promotional material both defined by the promoters and selected by the one or more subscribing consumers, is not anticipated by *Day* and moreover *Day* teaches away from a consumer selection at col. 5, lines 32 – 34: “The customer does not engage in any selection process, but instead is quickly processed at the kiosk.”

E.1. Rejection of Claim 19 under 35 USC § 102(b)

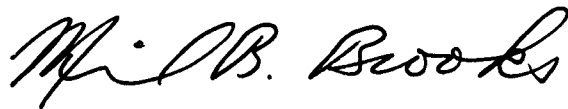
The Applicant again notes that claim 19 presently stands rejected by the Examiner under 35 USC § 102(b) as being anticipated by *Day*.

Claim 19, as originally filed, further limits claim 18 by adding an additional step and the Applicant respectfully asserts that since the patentability of claim 18 is not precluded by *Day*, claim 19 is presently allowable.

F. Conclusion

The Applicant respectfully submits that with the amendments of claims 1, 13, 16 and 18 and the arguments and remarks herein presented as clearly distinguishing the invention as claimed from the cited art, claims 1-19 are presently in condition for allowance. While no fees are anticipated with this response, should additional fees be required, authorization is hereby given to charge any additional fees, and credit any overcharges pertaining to the prosecution of this matter to Deposit Account No. **02-3979**.

Respectfully submitted,

A handwritten signature in black ink, reading "Michael B. Brooks". The signature is written in a cursive, flowing style with a large, stylized "M" and "B".

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